IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 785 OF 2005

IN

STAMP NUMBER MAIN NO. 2487 OF 2005

SMT. MUMTAJ BI, TIVIM, BARDEZ GOA. ....Applicant

Versus

SHRI PANDURANG S. TORASKAR AND 6 ORS., ...Respondents

Shri N. Vaze, Advocate for the Applicant.
Mr. Ajit R. Kantak, For Respondent No. 1 & 2.

Coram:- SMT. RANJANA DESAI, J.

Date:- 12th July, 2006

P.C.:

This is an application for condonation of 16 days delay in filing appeal. It is stated in the application that the applicant has no source of income; that the applicant depends upon money given by her relatives and on account of insufficiency of funds, the applicant could not file the appeal. It is further stated that the applicant has borrowed money from her relatives and the present appeal is filed.

2. Respondent 1 has filed an affidavit-in-reply. He has stated on oath that the husband of the applicant has a butcher's shop at Mapusa. It is further stated that the applicant is residing in a bungalow comprising ground plus one floor located at Mayur Colony at Karaswada, Mapusa. When this Court confronted the learned Advocate for the applicant with these assertions made in the affidavit-in-reply, he is not in a position to deny them. He has only stated that the bungalow was constructed by the

applicant after taking loan from a Bank.

3. I find substance in the submissions of the learned counsel for the respondents that the reason given for condonation of delay is totally unacceptable. He has pointed out that court fee on the present appeal is only Rs.6/-. Considering the property owned by the applicant, the claim that on account of paucity of funds they could not file the appeal in time does not appeal to this Court. Ordinarily in condonation of delay the courts take a lenient view, more so when the delay is not much. But in the facts of this case the explanation offered in the application appear to be palpably untrue. However, in the interest of justice in my opinion delay deserves to be condoned, but the applicant will have to be saddled with costs. Hence the following order :-

The application is granted in terms of prayer clause (A) on the condition that the applicant pays costs which is quantified at Rs.3000/- to the Goa State Legal Services Authority within a period of three weeks from today. It is clarified that payment of costs is condition precedent to condonation of delay.

Application disposed of.

SMT. RANJANA DESAI, J.

sl.